

UNITED STATE DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JENIECE ILKOWITZ and ADAM ILKOWITZ,

:  
Plaintiffs,  
-against-

MICHAEL DURAND, MARLENE ZARFES a/k/a  
MARLENE DURAND, ALAN C. PILLA, HOULIHAN  
LAWRENCE, INC., JANE H. CARMODY, THE  
JUDICIAL TITLE INSURANCE AGENCY LLC, and  
ENCO HOME INSPECTIONS LLC,

Defendants.

Civil Action No.: 1:17-cv-  
00773 (PGG)

:  
**PLAINTIFFS' RULE 56.1**  
**STATEMENT OF ADDITIONAL**  
**MATERIAL FACTS IN**  
**RESPONSE TO JUDICIAL**  
**TITLE'S MOTION FOR**  
**SUMMARY JUDGMENT**

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Plaintiffs Jeniece Ilkowitz and Adam Ilkowitz ("Plaintiffs"), by and through their attorneys, Messner Reeves LLP, respectfully submit this Rule 56.1 Statement of Additional Material Facts in opposition to Defendant Judicial Title Insurance Agency LLC's ("Judicial Title") Motion to Dismiss or for Summary Judgment, pursuant to Local Civil Rule 56.1(b) and the Court's Individual Rules of Practice. Pursuant to the Court's Rules of Practice, Plaintiffs' factual allegations begin at 23, consecutively running from Judicial Title's Rule 56.1 Statement.

23. Plaintiffs' retained Judicial Title to perform a title search of the home (the "Home"), located at 498 Manor Lane, Pelham Manor, New York 10803, as part of a Residential Contract of Sale (the "Contract of Sale") and separately paid Judicial Title \$325.00 as ancillary fees to perform departmental searches for "Housing," "Building," Fire," and "C/O" or certificate of occupancy records pertaining to the Home, as stated on the Title Insurance Closing Estimate. Affidavit of Adam Ilkowitz ("Ilkowitz Aff."), ¶¶ 3, 11, and Exs. B and F.

24. The building department violation search of the Home resulted in a finding of "No Violations." Ilkowitz Aff., ¶ 11, Ex. G.

25. The Village of Pelham Manor's public housing and building records file for the Home contained two separate letters (the "Lead Letters"), dated March 30, 2001 and April 26, 2001, evidencing lead contamination and violations at the Home for lead levels exceeding the Westchester County Department of Health's (the "Westchester DOH") regulations. Ilkowitz Aff., ¶ 9, Ex. D, at 14 and 15.

26. The Lead Letter are addressed directly to the Durand Defendants. Ilkowitz Aff., ¶ 9, Ex. D, at 14 and 15.

27. The Lead Letter dated March 30, 2001 is stamped as received by the Village of Pelham Manor on April 9, 2001. Ilkowitz Aff., ¶ 9, Ex. D, at 14.

28. Plaintiffs found the Lead Letters sometime after June 19, 2015 in the Village of Pelham Manor's public housing and building records file for the Home. Ilkowitz Aff., ¶ 9.

29. Plaintiffs submitted a public records request to Westchester County in response to which Westchester County produced the very same Lead Letters, as well as additional records and reports, evidencing lead contamination and violations of the Home. Ilkowitz Aff., ¶ 9, Ex. E.

30. Judicial Title did not disclose to Plaintiffs the Lead Letters or otherwise notify or inform Plaintiffs of a specific history or presence of lead contamination and violations of the Home. Ilkowitz Aff., ¶ 11.

Dated: New York, New York  
July 13, 2017

**MESSNER REEVES LLP**

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Adam Ilkowitz*

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